

In subsection (c), the words “All” and “shall” are omitted as surplusage. The word “Commissioned” is inserted before the word “officers” for clarity. The word “therein” is substituted for the words “in the same”.

§ 808. Art. 8. Apprehension of deserters

Any civil officer having authority to apprehend offenders under the laws of the United States or of a State, Commonwealth, possession, or the District of Columbia may summarily apprehend a deserter from the armed forces and deliver him into the custody of those forces.

(Aug. 10, 1956, ch. 1041, 70A Stat. 40; Pub. L. 109-163, div. A, title X, §1057(a)(4), Jan. 6, 2006, 119 Stat. 3440.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|--|
| 808 | 50:562. | May 5, 1950, ch. 169, §1 (Art. 8), 64 Stat. 111. |

The word “may” is substituted for the words “It shall be lawful for * * * to”. The words “a State, Territory, Commonwealth, or possession, or the District of Columbia” are substituted for the words “any State, District, Territory, or possession of the United States”. The words “of the United States”, before the words “and deliver”, are omitted as surplusage. The words “those forces” are substituted for the words “the armed forces of the United States”, after the words “custody of”.

AMENDMENTS

2006—Pub. L. 109-163 substituted “Commonwealth, possession,” for “Territory, Commonwealth, or possession.”.

§ 809. Art. 9. Imposition of restraint

(a) Arrest is the restraint of a person by an order, not imposed as a punishment for an offense, directing him to remain within certain specified limits. Confinement is the physical restraint of a person.

(b) An enlisted member may be ordered into arrest or confinement by any commissioned officer by an order, oral or written, delivered in person or through other persons subject to this chapter. A commanding officer may authorize warrant officers, petty officers, or noncommissioned officers to order enlisted members of his command or subject to his authority into arrest or confinement.

(c) A commissioned officer, a warrant officer, or a civilian subject to this chapter or to trial thereunder may be ordered into arrest or confinement only by a commanding officer to whose authority he is subject, by an order, oral or written, delivered in person or by another commissioned officer. The authority to order such persons into arrest or confinement may not be delegated.

(d) No person may be ordered into arrest or confinement except for probable cause.

(e) Nothing in this article limits the authority of persons authorized to apprehend offenders to secure the custody of an alleged offender until proper authority may be notified.

(Aug. 10, 1956, ch. 1041, 70A Stat. 40.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|--|
| 809(a) | 50:563(a). | May 5, 1950, ch. 169, §1 (Art. 9), 64 Stat. 111. |
| 809(b) | 50:563(b). | |
| 809(c) | 50:563(c). | |
| 809(d) | 50:563(d). | |
| 809(e) | 50:563(e). | |

In subsection (b), the word “commissioned” is inserted before the word “officer” for clarity. The words “member” and “members”, respectively, are substituted for the words “person” and “persons”.

In subsection (c), the words “A commissioned” are substituted for the word “An” for clarity. The word “commissioned” is inserted after the word “another” for clarity.

In subsection (d), the word “may” is substituted for the word “shall”.

In subsection (e), the word “limits” is substituted for the words “shall be construed to limit”.

§ 810. Art. 10. Restraint of persons charged with offenses

Any person subject to this chapter charged with an offense under this chapter shall be ordered into arrest or confinement, as circumstances may require; but when charged only with an offense normally tried by a summary court-martial, he shall not ordinarily be placed in confinement. When any person subject to this chapter is placed in arrest or confinement prior to trial, immediate steps shall be taken to inform him of the specific wrong of which he is accused and to try him or to dismiss the charges and release him.

(Aug. 10, 1956, ch. 1041, 70A Stat. 40; Pub. L. 114-328, div. E, title LII, §5121, Dec. 23, 2016, 130 Stat. 2896.)

AMENDMENT OF SECTION

Pub. L. 114-328, div. E, title LII, § 5121, title LXIII, § 5542, Dec. 23, 2016, 130 Stat. 2896, 2967, provided that, effective on the date designated by the President, not later than the first day of the first calendar month beginning two years after Dec. 23, 2016, with implementing regulations prescribed by the President not later than one year after Dec. 23, 2016, and with provisions relating to applicability to various situations, this section is amended to read as follows:

§ 810. Art. 10. Restraint of persons charged

(a) IN GENERAL.—(1) Subject to paragraph (2), any person subject to this chapter who is charged with an offense under this chapter may be ordered into arrest or confinement as the circumstances require.

(2) When a person subject to this chapter is charged only with an offense that is normally tried by summary court-martial, the person ordinarily shall not be ordered into confinement.

(b) NOTIFICATION TO ACCUSED AND RELATED PROCEDURES.—(1) When a person subject to this chapter is ordered into arrest or confinement before trial, immediate steps shall be taken—

(A) to inform the person of the specific offense of which the person is accused; and

(B) to try the person or to dismiss the charges and release the person.

(2) To facilitate compliance with paragraph (1), the President shall prescribe regulations setting forth procedures relating to referral for

trial, including procedures for prompt forwarding of the charges and specifications and, if applicable, the preliminary hearing report submitted under section 832 of this title (article 32).

See 2016 Amendment note below.

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|---|
| 810 | 50:564. | May 5, 1950, ch. 169, §1 (Art. 10), 64 Stat. 111. |

The word “he” is substituted for the words “such person”.

AMENDMENTS

2016—Pub. L. 114-328 amended section generally. Prior to amendment, text read as follows: “Any person subject to this chapter charged with an offense under this chapter shall be ordered into arrest or confinement, as circumstances may require; but when charged only with an offense normally tried by a summary court-martial, he shall not ordinarily be placed in confinement. When any person subject to this chapter is placed in arrest or confinement prior to trial, immediate steps shall be taken to inform him of the specific wrong of which he is accused and to try him or to dismiss the charges and release him.”

EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114-328 effective on the date designated by the President, not later than the first day of the first calendar month beginning two years after Dec. 23, 2016, with implementing regulations prescribed by the President not later than one year after Dec. 23, 2016, and with provisions relating to applicability to various situations, see section 5542 of Pub. L. 114-328, set out as a note under section 801 of this title.

§ 811. Art. 11. Reports and receiving of prisoners

(a) No provost marshal, commander of a guard, or master at arms may refuse to receive or keep any prisoner committed to his charge by a commissioned officer of the armed forces, when the committing officer furnishes a statement, signed by him, of the offense charged against the prisoner.

(b) Every commander of a guard or master at arms to whose charge a prisoner is committed shall, within twenty-four hours after that commitment or as soon as he is relieved from guard, report to the commanding officer the name of the prisoner, the offense charged against him, and the name of the person who ordered or authorized the commitment.

(Aug. 10, 1956, ch. 1041, 70A Stat. 40.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|---|
| 811(a) | 50:565(a). | May 5, 1950, ch. 169, §1 (Art. 11), 64 Stat. 112. |
| 811(b) | 50:565(b). | |

In subsection (a), the word “may” is substituted for the word “shall”. The words “a commissioned” are substituted for the word “an” for clarity.

§ 812. Art. 12. Confinement with enemy prisoners prohibited

No member of the armed forces may be placed in confinement in immediate association with enemy prisoners or other foreign nationals not members of the armed forces.

(Aug. 10, 1956, ch. 1041, 70A Stat. 41; Pub. L. 114-328, div. E, title LII, §5122, Dec. 23, 2016, 130 Stat. 2896.)

AMENDMENT OF SECTION

Pub. L. 114-328, div. E, title LII, § 5122, title LXIII, § 5542, Dec. 23, 2016, 130 Stat. 2896, 2967, provided that, effective on the date designated by the President, not later than the first day of the first calendar month beginning two years after Dec. 23, 2016, with implementing regulations prescribed by the President not later than one year after Dec. 23, 2016, and with provisions relating to applicability to various situations, this section is amended to read as follows:

§ 812. Art. 12. Prohibition of confinement of members of the armed forces with enemy prisoners and certain others

No member of the armed forces may be placed in confinement in immediate association with—

- (1) enemy prisoners; or
- (2) other individuals—
 - (A) who are detained under the law of war and are foreign nationals; and
 - (B) who are not members of the armed forces.

See 2016 Amendment note below.

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|---|
| 812 | 50:566. | May 5, 1950, ch. 169, §1 (Art. 12), 64 Stat. 112. |

The words “of the United States” are omitted as surplusage. The word “may” is substituted for the word “shall”.

AMENDMENTS

2016—Pub. L. 114-328 amended section generally. Prior to amendment, text read as follows: “No member of the armed forces may be placed in confinement in immediate association with enemy prisoners or other foreign nationals not members of the armed forces.”

EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114-328 effective on the date designated by the President, not later than the first day of the first calendar month beginning two years after Dec. 23, 2016, with implementing regulations prescribed by the President not later than one year after Dec. 23, 2016, and with provisions relating to applicability to various situations, see section 5542 of Pub. L. 114-328, set out as a note under section 801 of this title.

§ 813. Art. 13. Punishment prohibited before trial

No person, while being held for trial, may be subjected to punishment or penalty other than arrest or confinement upon the charges pending against him, nor shall the arrest or confinement imposed upon him be any more rigorous than the circumstances require to insure his presence, but he may be subjected to minor punishment during that period for infractions of discipline.

(Aug. 10, 1956, ch. 1041, 70A Stat. 41; Pub. L. 97-81, §3, Nov. 20, 1981, 95 Stat. 1087.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|---|
| 813 | 50:567. | May 5, 1950, ch. 169, §1 (Art. 13), 64 Stat. 112. |